

## Office of the Secretary, Interior

## § 5.5

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### Subpart A—Areas Administered by the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service

#### § 5.1 What does this subpart cover?

This subpart covers commercial filming and still photography activities on lands and waters administered by the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service.

#### § 5.2 When do I need a permit for commercial filming or still photography?

- (a) All commercial filming requires a permit.
- (b) Still photography does not require a permit unless:
  - (1) It uses a model, set, or prop as defined in § 5.12; or
  - (2) The agency determines a permit is necessary because:

- (i) It takes place at a location where or when members of the public are not allowed; or

- (ii) The agency would incur costs for providing on-site management and oversight to protect agency resources or minimize visitor use conflicts.

- (c) Visitors do not require a permit for filming or still photography activities unless the filming is commercial filming as defined in § 5.12 or the still photography activity involves one of the criteria listed in § 5.2 (b).

#### § 5.3 How do I apply for a permit?

For information on application procedures and to obtain a permit application, contact the site manager at the location at which you seek to conduct commercial filming or still photography activities.

#### § 5.4 When is a permit required for news-gathering activities?

(a) *Permit requirements.* News-gathering activities involving filming, videography, or still photography do not require a permit unless:

- (1) We determine a permit is necessary to protect natural and cultural resources, to avoid visitor use conflicts, to ensure public safety or authorize entrance into a closed area; and
- (2) Obtaining a permit will not interfere with the ability to gather the news.

(b) *Terms and conditions.* All permits issued under this section will include only terms and conditions necessary to maintain order, ensure the safety of the public and the media, and protect natural and cultural resources.

(c) *Exemptions.* A permit issued for news-gathering activities is not subject to location fees or cost recovery charges.

#### § 5.5 When will an agency deny a permit for commercial filming or still photography?

We will deny a permit authorizing commercial filming or still photography if we determine that it is likely that the activity would:

- (a) Cause resource damage;
- (b) Unreasonably disrupt or conflict with the public's use and enjoyment of the site;

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- (c) Pose health or safety risks to the public;
- (d) Result in unacceptable impacts or impairment to National Park Service resources or values;
- (e) Be inappropriate or incompatible with the purpose of the Fish and Wildlife Service refuge;
- (f) Cause unnecessary or undue degradation of Bureau of Land Management lands; or
- (g) Violate the Wilderness Act (16 U.S.C. 1131–1136) or any other applicable Federal, State, or local law or regulation.

### §5.6 What type of permit conditions may the agency impose?

- (a) We may impose permit conditions including, but not limited to, conditions intended to:
  - (1) Protect the site's values, purposes, and resources, and public health and safety; and
  - (2) Prevent unreasonable disruption of the public's use and enjoyment.
- (b) We may revoke your permit if you violate a permit condition.

### §5.7 What are my liability and bonding requirements as a permit holder?

- (a) *Liability.* In accepting a permit, you agree to be fully liable for any damage or injury incurred in connection with the permitted activity, and to indemnify and hold harmless the United States of America as a result of your actions. We may require you to obtain property damage, personal injury, commercial liability or public liability insurance in an amount sufficient to protect the United States from liability or other claims arising from activities under the permit. The insurance policy must name the United States of America as an additional insured.
- (b) *Bond.* You are responsible for all response, repair and restoration if your activity causes damage to an area. We may also require you to provide a bond or other security sufficient to secure any obligations you may have under the permit and applicable laws and regulations, including the cost of repair, reclamation, or restoration of the area. The amount of the bond or security must be in an amount sufficient to pro-

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vide full payment for the costs of response and restoration, reclamation, or rehabilitation of the lands in the event that you fail to adequately repair, reclaim, or restore the area as directed by the agency. If the amount of the bond or other security is inadequate to cover cost of the repair, reclamation, or restoration of the damaged lands or resources you will also be responsible for the additional amount.

### §5.8 What expenses will I incur?

You must pay us a location fee and reimburse us for expenses that we incur, as required in this section.

(a) *Location fee.* (1) For commercial filming and still photography permits, we will require a reasonable location fee that provides a fair return to the United States.

(2) The location fee charged is in lieu of any entrance or other special use fees. However, the location fee is in addition to any cost recovery amount assessed in paragraph (b) of this section and represents a fee for the use of Federal lands and facilities and does not include any cost recovery.

(3) We will assess location fees in accordance with a fee schedule, which we will publish in the FEDERAL REGISTER and also make available on the internet and at agency field offices. The location fee does not include any cost recovery.

(b) *Cost recovery.* You must reimburse us for actual costs incurred in processing your request and administering your permit. We will base cost recovery charges upon our direct and indirect expenses including, but not limited to, administrative costs for application processing, preproduction meetings and other activities, on-site monitoring of permitted activities, and any site restoration.

### §5.9 How long will it take to process my request?

We will process applications for commercial filming and still photography permits in a timely manner. Processing times will vary depending on the complexity of the proposed activity. A pre-application meeting with agency personnel is encouraged and may assist us in processing your request for a permit